IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.27091 of 2006

Dated: January 02, 2007

Between:

M. Pratap Reddy, S/o. Narayana Reddy, aged about 54 years, working as Pump Operator, GDK-6B Incline, Singareni Collieries Co. Ltd., Godavarikhani, Karimnagar District.

… Petitioner

And

The Singareni Collieries Co. Ltd., rep. by its Chief - General Manager, RG-1 Area, Godavarikhani, Karimnagar District, and another.

… Respondents

Order:

This Writ Petition has been filed seeking Mandamus to declare the order dated 05-12-2006 passed by the first respondent in office order No.RGI/PER/S/46/7332 as illegal and arbitrary and a consequential direction to the respondents to restore his increments that were deferred in terms of the aforesaid order.

2. Certain disciplinary proceedings were initiated against the petitioner, who is working as Pump Operator in GDK-6B Incline in the respondent-Singareni Collieries Company Limited, as per company standing order 25 (5) and 25 (3) for the alleged violation of Regulation 38 of Coal Mines Regulations 1957. A charge was framed against the petitioner that he did not carry safety lamp while discharging duties as Pump Operator and a show cause notice dated 04-05-2006 was issued to him to that effect.

3. It is the case of the petitioner that though he has filed his explanation to the said show cause notice, the impugned order has been passed on the ground that he did not make any representation pursuant to the said show cause notice.

4. Heard learned counsel for the petitioner and learned Standing Counsel appearing on behalf of the respondents.

5. However, a perusal of Clause 29 of the Standing Orders applicable to the respondent-company would make it clear that a workman on whom any of the penalties is imposed shall have the right to appeal to the authorities notified in this behalf. In that view of the matter, there is no special reason to entertain this Writ Petition bypassing the remedy of appeal available to the petitioner against the order passed by the first respondent. It is to be noted that the impugned order has been passed on the ground that petitioner did not submit his representation to the show cause notice issued to him. However, it is the case of the petitioner that though he has submitted his representation to the show cause notice issued to him, the same was not taken into account before imposing the aforesaid punishment on him. Whether the petitioner is liable for the charge or not is a

matter, which cannot be gone into by this court at this stage. In view of the remedy of appeal available to the petitioner, I deem it appropriate to dispose of the Writ Petition permitting the petitioner to file an appeal against the order of the first respondent dated 05-12-2006, as per Clause 29 of the Standing Orders of the respondent-company within a period of three weeks from the date of receipt of a copy of this order. On such appeal being filed, the appellate authority shall entertain the appeal and pass appropriate orders on merits without raising any objection with regard to limitation. Till a decision is taken on the appeal to be filed by the petitioner and appropriate orders are passed by the appellate authority, the order of the first respondent dated 05-12-2006 shall stand suspended.

6. The Writ Petition is accordingly disposed of. No order as to costs.

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JUSTICE R. SUBHASH REDDY.

January 02, 2007
MRR